

Notice of Allowability

Application No.

09/886,531

Examiner

Kieu D. Vu

Applicant(s)

PETRUK ET AL.

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to The Amendment filed on 10/19/05 and the telephone interview on 01/06/06.
2. ☒ The allowed claim(s) is/are 1-34.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

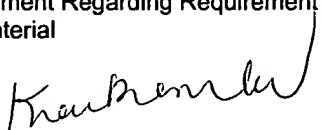
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |



EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Applicant Representative, Mr. Mark Williams on 01/06/06.

3. The claims had been amended as follows:

Claim 1:

Line 6, after "comprises a", insert --respective--

Line 14, replace "a plurality of interconnected nodes" with "the respective plurality of interconnected nodes of the first graphical program template"

Line 17, delete "are operable to"

Claim 10:

Line 4, after "comprises a", insert --respective--

Line 9, after "including the", insert -- respective plurality of--

Claim 17:

Line 3, replace "respective" with "corresponding"

Claim 18:

Line 3, replace "respective" with "corresponding"

Claim 20:

Line 7, after "comprises a", insert --respective--

Line 15, replace "a plurality of interconnected nodes" with "the respective plurality of interconnected nodes of the first graphical program template"

Line 18, delete "are operable to"

Claim 21:

Line 1, before "memory medium", insert --computer readable--

Line 6, after "comprises a", insert --respective--

Line 14, replace "a plurality of interconnected nodes" with "the respective plurality of interconnected nodes of the first graphical program template"

Line 17, delete "are operable to"

Claim 28:

Line 1, before "memory medium", insert --computer readable--

Line 4, after "comprises a", insert --respective--

Line 9, after "including the", insert -- respective plurality of--

Allowable Subject Matter

4. Claims 1-34 are allowed.

5. The following is an examiner's statement of reasons for allowance:

The Examiner has carefully considered the independent claims 1, 10, 20, 21, and 28. The technique for "creating a graphical program" as claimed was not taught or suggested by the prior art. Specifically, the prior art does not teach "wherein during execution of the graphical program, the plurality of interconnected nodes programmatically included in the graphical program perform the first program process" in a specific combination as recited in claims 1 and 21, or "wherein during execution of the graphical program, the plurality of interconnected nodes programmatically included

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in the virtual instrument graphical program perform the first virtual instrumentation process” in a specific combination as recited in claim 20, or “for at least a first node that was programmatically included in the graphical program”, “performing” “displaying a graphical user interface (GUI) associated with the first node, wherein the GUI comprises information useable in guiding a user in specifying desired functionality for the first node; receiving user input to the GUI specifying desired functionality for the first node; programmatically including graphical source code associated with the first node in the graphical program, wherein the programmatically included graphical source code implements the specified functionality” in a specific combination as recited in claims 10 and 28. These limitations define patentably over relevant prior art made of record.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached at 571-272-4048.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

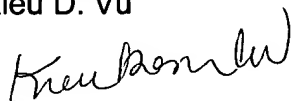
and / or:

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571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kieu D. Vu

A handwritten signature in black ink, appearing to read 'Kieu D. Vu', is written below the printed name.